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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/072,672

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Eric Thomas Eaton

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EXAMINER

NGUYEN, DUSTIN

ART UNIT

PAPER NUMBER

2154

DATE MAILED: 12/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/072,672

Applicant(s)

EATON ET AL.

Examiner

Dustin Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-14 and 16-55 is/are pending in the application.
- 4a) Of the above claim(s) 2,3 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-14,16-33 and 37-55 is/are rejected.
- 7) ☒ Claim(s) 34-36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1, 4-14, 16-55 are presented for examination.

Claim Objections

2. Claims 34-36 are objected to because of the following informalities: As per claim 34, it has a dependency problem. Appropriate correction is required.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1, 4-14, 16-55 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 5, 7-72 of copending Application No. 09/995,338 [hereinafter '338 application]. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons:

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Taking claim 1 as an exemplary claim, the '338 application contains the subject matter claimed in the instant application. As per claim 1, both applications are claiming common subject matter, as follows:

A method for providing continuity of at least one online session ..., the method comprising:

participating in the at least one online ...; and

initiating a transfer

The claims of '339 application do not specifically disclose the step in the same order as the instant application but it would have been obvious to a person skill in the art to recognize that the two claims are similar because both are claiming the method steps for transferring session from the first client to the second client without discontinued the session.

As per independent claims 40 and 53, they are also directed to the same subject matter recited in claim 1 above. Accordingly, they are provisionally rejected under the judicially created doctrine of obviousness-type double patenting.

As per dependent claims 4-14, 16-39, 41-52, 53-55 of the instant application, they contain similar subject matter as claims 5, 7-72 of '339 application. Accordingly, they are provisionally rejected under the judicially created doctrine of obviousness-type double patenting.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1, 4, 5, 8, 12-14, 16-26, , 29, 30, 33, 40, 41, 44-47, and 53 are rejected under 35 U.S.C. 102(e) as being anticipated by Miller [US Patent Application No 2003/0055977].

7. As per claim 1, Miller discloses the invention substantially as claimed including a method for providing continuity of at least one online session between a server and at least one remote session client [i.e. a session server provides the capability to direct transfer of an on-going session from one device to another device while maintaining the session] [Abstract; and paragraphs 0006 and 0007], the method comprising:

participating in the at least one online session by a first session client [i.e. conducting a session] [paragraphs 0005 and 0008], wherein participation includes receiving and accumulating a plurality of session information for the at least one online session from the server [i.e. session context and session history] [paragraphs 0015 and 0042]; and

initiate a transfer of the plurality of session information for the at least one online session to a second session client [i.e. initiating a transfer of an on-going session from a first device to a second device] [paragraph 0015] so as to enable the second session client to seamlessly continue the at least one online session in place of the first session client after the transfer of the session information [i.e. transferring a current session of client to another device without discontinuing the session] [paragraph 0022].

8. As per claim 4, Miller discloses storing at least one transfer client profile associated with at least one of a plurality of session clients [i.e. device profile database] [Abstract; paragraphs 0016 and 0030], wherein the initiating a transfer step includes choosing the second session client from the at least one stored transfer client profile [i.e. select profile] [paragraph 0043].

9. As per claim 5, Miller discloses wherein the first session client operates within a first session device, and further wherein the second client operates within a second session device [120, 125, Figure 1; and paragraphs 0019 and 0022].

10. As per claim 8, Miller discloses wherein the first session client and the second session client operate with a session device [i.e. resuming said session on said first device in response to

a reactivation of said first device] [claim 4, lines 5 and 6].

11. As per claim 12, Miller discloses sending a session transfer notification from the first session client [i.e. redirect command from the first client] [Abstract; paragraph 0007].

12. As per claim 13, Miller discloses wherein the session transfer notification is sent from the first session client to the server informing the server to pass the plurality of session information to the second session client [i.e. invoke the transfer by the first client] [paragraph 0015].

13. As per claim 14, Miller discloses wherein the session transfer notification is sent from the first session client to the second session client [paragraph 0045; and claim 3].

14. As per claim 16, Miller discloses wherein the second session client operates within a session device having a data transfer application [i.e. application software] [paragraph 0022] and wherein the session transfer notification is sent from the first session client to the server informing the server to pass the plurality of session information to the data transfer application within the second session device [i.e. redirect command] [Abstract; and paragraph 0007].

15. As per claim 17, it is rejected for similar reasons as stated above in claims 14 and 16.

16. As per claim 18, it is rejected for similar reasons as stated above in claims 5, 8 and 14.

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17. As per claim 53, it is rejected for similar reasons as stated above in claim 1.

18. As per claim 19, Miller discloses prior to the step of receiving the transfer of session information launching a data transfer within the second session client, and sending a session transfer notification from the second session client [i.e. in response to an activation or log-in] [Abstract; paragraph 0038].

19. As per claim 20, Miller discloses wherein the session transfer notification is sent from the second session client to the server informing the server to pass the session information to the second session client [i.e. push session to the redirect device] [Abstract; and paragraph 0016].

20. As per claim 21, Miller discloses wherein the session transfer notification is sent from the second session client to the first session client [i.e. push back] [paragraph 0016].

21. As per claims 22-24, they are rejected for similar reasons as stated above in claims 19-21.

22. As per claim 25, Miller discloses wherein the first session client operates within an additional session device, and further wherein the session transfer notification is sent from the session device to the additional session device [i.e. a selection of possible devices that may receive redirect session] [paragraph 0015].

23. As per claim 26, Miller discloses receiving, by the second session client, user input

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instructing the second session client to connect to an event site on the server associated with the at least one online session; retrieving, by the second session client, latest information from the event site using the session information; and storing the latest information retrieved from the event site [i.e. push an alert to notify the redirect device that a session is waiting] [paragraph 0038].

24. As per claim 29, it is rejected for similar reasons as stated above in claims 19 and 26.

25. As per claim 30, it is rejected for similar reasons as stated above in claim 26.

26. As per claim 33, it is rejected for similar reasons as stated above in claim 26.

Furthermore, Miller discloses expiration of an event parameter of the session information [paragraphs 0047-0050].

27. As per claim 40, it is rejected for similar reasons as stated above in claim 1.

28. As per claim 41, it is rejected for similar reasons as stated above in claim 5.

29. As per claim 44, it is rejected for similar reasons as stated above in claim 4.

30. As per claims 45 and 46, they are rejected for similar reasons as stated above in claims 16 and 17.

31. As per claim 47, it is rejected for similar reasons as stated above in claim 8.

Claim Rejections - 35 USC § 103

32. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

33. Claims 6, 7, 9, 10, 28, 32, 37, 38, 42, 43, 48, 49, 51, 54 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller [US Patent Application No 2003/0055977] in view of DeLorme et al. [US Patent No 5,948,040].

34. As per claim 6, Miller discloses wherein the first session device is a device selected from a group consisting of a fixed network device, a mobile device [Figure 1; and paragraphs 0002-0004]. Miller does not specifically disclose a cable box. DeLorme discloses a cable box [col 15, lines 5-8]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Miller and DeLorme because DeLorme's teaching of cable box would allow to integrate the system of Miller to the cable system so that information can be provided to television users.

35. As per claim 7, it is rejected for similar reasons as stated above in claim 6.

36. As per claim 9, it is rejected for similar reasons as stated above in claim 6.

37. As per claim 10, Miller does not disclose wherein the at least one online session is an online gambling event, and further wherein the plurality of session information comprises one or a combination of information selected from a group consisting of an event name, an event number, an event description, a navigation path, a gambling house, a start time, an end time, a current status, an event monitoring, a URL where results reside, a last URL visited, the type of event, the score, prior history of related events, and event odds. DeLorme discloses wherein the at least one online session is an online gambling event, and further wherein the plurality of session information comprises one or a combination of information selected from a group consisting of an event name, an event number, an event description, a navigation path, a gambling house, a start time, an end time, a current status, an event monitoring, a URL where results reside, a last URL visited, the type of event, the score, prior history of related events, and event odds [i.e. game and schedule] [col 27, lines 1-12]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Miller and DeLorme because DeLorme's teaching of online gambling event would allow the system of Miller to extend its capability to additional services.

38. As per claim 28, DeLorme discloses alerting an account user of an online session result contained within the latest information retrieved from the event site when the at least one online

session has ended [col 29, lines 58-63; and col 69, lines 53-58].

39. As per claim 32, it is rejected for similar reasons as stated above in claim 10.

40. As per claim 37, it is rejected for similar reasons as stated above in claim 26.

Furthermore, DeLorme discloses comparing a current time to a range surrounding an event time; retrieving, by the second session client, latest information from an event site on the server associated with the at least one online session using the session information when the current time is within the range surrounding the event time [col 54, lines 26-56].

41. As per claim 38, DeLorme discloses determining whether an online account user is in close proximity to the session device prior to the retrieving step, wherein the determination is made without active interaction with the second session client by the online account user; and continuing to the retrieving step when the online account user is in close proximity to the session device [i.e. proximity] [Figures 5A-D; and col 13, lines 6-10].

42. As per claims 42 and 43, they are rejected for similar reasons as stated above in claims 6 and 7.

43. As per claim 48, it is rejected for similar reasons as stated above in claim 9.

44. As per claim 49, it is rejected for similar reasons as stated above in claim 10.

45. As per claims 51 and 54, they are rejected for similar reasons as stated above in claim 38.

46. As per claim 55, DeLorme discloses the session device includes a motion sensor, and wherein the step of determining whether a user is in close proximity to the session device comprises determining whether an output of the motion sensor is greater than a tilt sensor threshold; when the output of the motion sensor is greater than the tilt sensor threshold, determining that the user is in close proximity to the session device; and when the output of the motion sensor is not greater than the tilt sensor threshold and a predetermined time has expired, determining that the user is not in close proximity to the session device [col 75, lines 46-col 76, lines 6].

47. Claims 11, 27, 31, 39, 50, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller [US Patent Application No 2003/0055977] in view of Brown [US Patent Application No 2005/0034161].

48. As per claim 11, Miller does not specifically disclose wherein the at least one online session is an online auction session, and further wherein the plurality of session information comprises one or a combination of information selected from a group consisting of an item name, an item number, an item description, an item identification, a navigational path, an auction type, an auction house, an end time, a number of bidders, a reserve price, a current status, a URL

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where results reside, and a sellers store from URL. Brown discloses wherein the at least one online session is an online auction session, and further wherein the plurality of session information comprises one or a combination of information selected from a group consisting of an item name, an item number, an item description, an item identification, a navigational path, an auction type, an auction house, an end time, a number of bidders, a reserve price, a current status, a URL where results reside, and a sellers store from URL [paragraph 0042]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Miller and Brown because Brown's teaching of online auction would allow the system of Miller to apply for other online services, which increase the value of the system.

49. As per claim 27, Miller does not specifically disclose wherein the server is characterized by a session server identification, and further wherein the retrieving the latest information step further comprises using the session server identification. Brown discloses wherein the server is characterized by a session server identification, and further wherein the retrieving the latest information step further comprises using the session server identification [paragraphs 0075, 0083 and 0085]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Miller and Brown because Brown's teaching of session server identification would allow to maintain the correct information during session transferring to keep its integrity.

50. As per claim 31, it is rejected for similar reasons as stated above in claim 11.

51. As per claim 39, it is rejected for similar reasons as stated above in claim 27.
52. As per claim 50, it is rejected for similar reasons as stated above in claim 11.
53. As per claim 52, it is rejected for similar reasons as stated above in claim 39.
54. Applicant's arguments with respect to claims 1, 4-14, 16-55 have been considered but are moot in view of the new ground(s) of rejection.
55. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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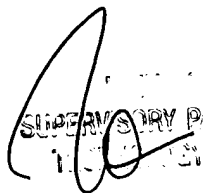
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The examiner can normally be reached on flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Follansbee John can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dustin Nguyen
Examiner
Art Unit 2154



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